**IS THE RIGHT OF CHILDREN TO FREE AND COMPULSORY BASIC EDUCATION A REALITY OR A SCAM?**

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**INTRODUCTION**

Children are undergoing through challenges but often times they fail and cannot advocate for their rights due to their inability to express themselves or say their minds to the world or call for help. The most suffered are the children that often come from the poorest of the poor who barely feed themselves properly. Growing up in the village in the northern part of Nigeria, I saw majority of children who did not afford to even go to primary school let alone secondary school, they could not afford to go to school thereby remain perpetually illiterate, this is a disturbing situation.

This paper examines the basic rights of children that are often infringed upon, the paper challenges the authority to take up the implementations of laws thereby shading off the shackles of illiteracy and poverty ravaging our society.

This paper is divided into four sections:

* Section one introduces the paper.
* Section two defines and sets out the rights of children.
* Section three sets out the challenges.
* Section four concludes the paper.

**DEFINITION OF CHILD AND THE RIGHTS OF CHILDREN**

The word child before now was debatable as there was virtually no universal definition of a child, however, the coming into be the Child Right Act 2003 lays to rest the debate as to who is a child. The Act defines the child to mean *“a person under the age of Eighteen (18) years.”*

However, before the coming to be of the CRA, there were two international instruments to wit; The United Nation Convention on the Rights of the Child 1989 and the African Charter on the Rights and Welfare of the Child 1991 which the Child Right Act seems to have adopted their provisions and definition and of course, Nigeria is a signatory to all those international instruments and has gone ahead to domesticate the United Nations Convention on the Rights of the Child as the Child Rights Act of 2003.

The argument as to whether a child can be regarded as a matured minor is discarded by virtue of section 219 of the CRA which states clearly that *“No person under the age of 18 years is capable of contracting a valid marriage and accordingly, a marriage so contracted is null and void and of no effect whatsoever.”* For the purpose of this paper we shall extensively discuss the *right of children to free and compulsory primary education.*

However, on a lighter note, the Child Right Act makes provision for the protection and promotion of anything that will serve the best interest of the child and that will be of paramount consideration in all action.

Section 3(1) of the Act states clearly that the *“provision in chapter IV of the constitution of the Federal Republic of Nigeria 1999, or any successive constitutional provisions relating to Fundamental Rights, shall apply as if those provisions are expressly stated in the Act.”*

Going by section 3 of the Act, the constitutional provided rights contemplated by the Act are:  
a. Right to Life (S.33) CFRN 1999 as amended.  
b. The Right to Dignity of the Human Person (S.34) CFRN 1999 as amended.  
c. The Right to Personal Liberty (S.35) CFRN 1999 as amended.  
d. The Right to Fair-hearing (S.36) CFRN 1999 as amended.  
e. The Right to Privacy and Family Life (S.37) CFRN 1999 as amended.  
f. The Right to Freedom of Thought, Conscience and Religion (S.38) CFRN 1999 as amended.  
g. The Right to Freedom of Expression and the Press (S.39) CFRN 1999 as amended.  
h. The Right to Peaceful Assembly and Association (S.40) CFRN 1999 as amended.  
i. The Right to Freedom of Movement (S.41) CFRN 1999 as amended.  
j. The Right to Freedom from Discrimination (S.42) CFRN 1999 as amended.  
k. The Right to Acquire and own Immovable Property anywhere in Nigeria (S.43) CFRN 1999 as amended.  
l. The Right against Compulsory acquisition of one’s property without compensation (S.43) CFRN 1999 as amended.  
m. There is provision in the constitution for special procedure for enforcement of those rights by the courts through the Fundamental Rights (Enforcement Procedure) Rules 2009.

All the above rights and others as provided for by the Act are to be observed and of paramount under this discussion is that of *the right of a child to free, compulsory and universal primary education* provided for by section 15 of the Act which states clearly thus:

1. Every child has the right to free, compulsory and universal basic education and it shall be the duty of the government in Nigeria to provide such education. *(Emphasis mine).*
2. Every parent or guardian shall ensure that his child or ward attends and completes his:  
   a. Primary school education and  
   b. Junior secondary education
3. Every parent, guardian or person who has the care and custody of a child who has completed his basic education, shall endeavor to send the child to a senior secondary school, except as provided for in subsection (4) of the section.
4. Where a child to whom subsection (3) of this section applies is not sent to senior secondary school, the child shall be encouraged to learn an appropriate trade and the employer of the child shall provide the necessaries for learning the trade.
5. A female child who becomes pregnant, before completing her education shall be given the opportunity, after delivery to continue with her education on the basis of her individual ability.
6. Where a parent, guardian or person who has care and custody of a child, fails in the duty imposed on him under subsection (2) of the section, commits an offence and is liable:  
   a. On first conviction to be reprimanded and ordered to undertake community service.  
   b. On second conviction to a fine of Two Thousand Naira (₦2,000) or imprisonment for a term not exceeding one month or to both such fine and imprisonment.  
   c. On any subsequent conviction to a fine not exceeding Five Thousand Naira (₦5,000) or imprisonment for a term not exceeding two months or to both such fine and imprisonment.
7. The provisions of this section shall not apply to children with mental disabilities. *(emphasis mine).*

The above section 15 of the Act mandates the government at all levels to ensure that every child attends compulsory basic education freely.

**CHALLENGES**

As lofty as the provisions of the CRA, the implementation is nothing to ride home about. Most states in Nigeria or the National Government has not implemented this provision. School children in most part of Nigeria are not in schools and even some that are in schools are being paid exorbitant amounts of money as school fees, no one talks and it appears that this provision of the law is existing only on papers and nothing more.

School children are being seen on the street, some hawking and others on farms and to others with no means of sustenance. It is argued that the Nigerian Government cannot say that the right of children to have access to free and compulsory basic education falls under chapter two of the 1999 constitution of Nigeria.

Even at that, item 60(a) 2nd schedule, Part I of the 1999 Constitution of Nigeria (as amended) empowers the National Assembly to enact laws as to the enforcement of chapter 2 of the constitution and pursuant to that, any enactment validly made by the National Assembly that patterns to chapter 2 cannot be said is non-justiciable and non-enforceable.

The government is under the obligation and compulsorily too to make available the free and compulsory basic education for all children irrespective of whether they are in public or private schools. The government should provide logistics available to both private and public schools to render free education to children from primary to junior secondary schools in fulfillment of the provision of the Child Right Act, 2003.

**CONCLUSION**

The Child Right Act, 2003 brought about lofty provisions for the purpose of protecting, promoting and fulfilling the rights of children, however, implementation is nothing to ride home about. Children are still denied of their rights and nothing happens. It is recommended that the government of Nigeria should sit up in promoting, protecting and fulfilling the rights of children.